HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No. 21228 OF 1998

Between:

Yalapakurthi Kameswara Rao

…Petitioner

AND

The District Collector (Cooperation),
Srikakulam District and two others

...Respondents

: O R D E R :

Counsel for the petitioner : Shri P. Chakravarthy for
Shri O. Manohar Reddy

Counsel for the respondents : Government Pleader for
Cooperation

October 3, 2007

This is a petition for quashing order dated 8-6-1995 passed by Collector (Cooperation), Srikakulam, whereby he sanctioned the prosecution of the petitioner and three others for the alleged misappropriation of the funds of Veeraghatam Primary Agricultural Cooperative Society.

Although the petitioner has questioned the impugned order on several grounds set out in the writ petition, most of which appear to be untenable, I do not consider it necessary to deal with the same because the learned Government Pleader for Cooperation very fairly stated that on the basis of preliminary enquiry got conducted under Section 51 of the Andhra Pradesh Cooperative Societies Act, 1964 (for short, 'the 1964 Act'), the District Collector (Cooperation) was not entitled to sanction prosecution of the petitioner. He submitted that an order for prosecution could have been passed only on the basis of findings recorded in the enquiry held under Section 60 of the Act.

In view of the fair stand taken by the learned Government Pleader, the writ petition is allowed and the order under challenge is quashed insofar as it relates to the petitioner. However, it is made clear that decision of this petition shall not preclude the competent authority from initiating surcharge proceedings under Section 60 of the Act and passing appropriate order in accordance with law.

G.S. SINGHVI, CJ

October 3, 2007
ks/ARS